

Notice of Rulemaking Hearing
Tennessee Department of Environment And Conservation
Division of Air Pollution Control

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 17th day of February, 2005.

Written comments will be included in the hearing records if received by the close of business February 17, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (February 17, 2005) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Jeff Cales at 931-432-7621. For complete copies of the text of the notice, please contact Mr. Malcolm Butler, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243, telephone 615-532-0600.

Summary of Proposed Changes

Chapter 1200-3-4

Open Burning

Amendments

Subparagraph (a) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by deleting the definition for "air curtain destructor or air curtain incinerator" as a definition would be added to rule 1200-3-2-.01 GENERAL DEFINITIONS.

Subparagraph (d) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by adding clarifying language to the existing definition for "open burning" to explicitly state that the use an air curtain destructor or air curtain incinerator is incineration, and is not open burning. These changes are necessary to more effectively regulate incineration statewide.

Paragraph (6) of rule 1200-3-4-.03 OPEN BURNING PROHIBITED is amended by deleting the entire paragraph, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements stated in the individual permit. This change is necessary to more effectively regulate incineration statewide.

Subparagraph (k) of paragraph (1) of rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION is amended by deleting the entire paragraph, as air curtain destructors or air curtain incinerators would require individual incineration permits, with applicable requirements stated in the individual permit. This change is necessary to more effectively regulate incineration statewide.

Text of Proposed Changes

Chapter 1200-3-4
Open Burning

1. Subparagraph (a) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by deleting the definition for “air curtain destructor or air curtain incinerator”) so that, as amended, the new subparagraph (a) shall read:
 - a. Repealed.
2. Subparagraph (d) of paragraph (1) of rule 1200-3-4-.02 DEFINITIONS is amended by substituting for the present Subparagraph (d), a new Subparagraph (d) so that, as amended, the new Subparagraph (d) shall read:
 - d. “Open Burning” is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack. The use of an air curtain destructor or air curtain incinerator is considered incineration subject to the permitting requirements of Rule 1200-3-9, and is explicitly not considered open burning.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202. Administrative History: Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979, March 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed January 17, 2003; effective April 1, 2003. Amendment filed January 17, 2003; effective April 1, 2003.

3. Paragraph (6) of rule 1200-3-4-.03 OPEN BURNING PROHIBITED is amended by deleting the entire Paragraph (6) so that, as amended, the new paragraph (6) shall read:
 - (6) Repealed.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202. Administrative History: Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed November 22, 1993; effective February 5, 1994. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed July 9, 2001; effective September 22, 2001. Amendment filed January 17, 2003; effective April 1, 2003.

4. Subparagraph (k) of paragraph (1) of rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION is amended by deleting the entire Subparagraph (k) so that, as amended, the new subparagraph (k) shall read:
 - (k) Repealed.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-202. Administrative History: Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979; effective March 21, 1979. Amendment filed May 7, 1979; effective June 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001.

Legal Contact and/or party who will approve final copy for publication:

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I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Division of Air Pollution Control.

Barry R. Stephens
Director
Tennessee Division of Air Pollution Control

Subscribed and sworn to before me this the ____ day of _____, 2004.

Notary Public

My commission expires on the ____ day of _____, _____.

This notice of rulemaking set out herein was properly filed in the Department of State on the ____ day of _____, 2005.

Riley C. Darnell
Secretary of State

By: _____